REMARKS

This Application has been carefully reviewed in light of the Final Action dated April 1, 2005. In order to advance prosecution of the present Application, Claims 1, 7, and 11 have been amended. Applicant respectfully requests reconsideration and favorable action in this Application.

Claims 7 and 11 stand objected to for various informalities. Claims 7 and 11 have been amended to address the informalities identified by the Examiner.

Claims 1, 3-9, 11, 13, 14, and 17-23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lamport, et al. in view of Hsing, et al. Applicant respectfully traverses this rejection.

Independent Claims 1 and 11 recite in general the ability to inhibit generation of a switch status message destined for another switch at a first switch upon not receiving a switch status message from a second switch in order to initiate redirection of subsequent data messages over an alternate data path through said data network. By contrast, neither the Lamport, et al. patent nor the Hsing, et al. patent inhibit generation of a switch status message let alone inhibit its generation to another switch in the network as provided in the claimed invention. Moreover, the Lamport, et al. and Hsing, et al. patents use this inhibit capability to trigger a redirection of data messages onto an alternate path as provided by the claimed invention. The Examiner cites the keep alive message and acknowledgment message of the Lamport, et al. patent to support the rejection. However, the Lamport, et al. patent clearly states that a keep alive message is resent several times when an acknowledgment message is not received. See col. 37, lines 42-45, of the Lamport, et al. patent. Thus, the Lamport, et al. patent does not inhibit its

keep alive message as required by the claimed invention. The Hsing, et al. patent uses a polling and response technique between two nodes to detect a fault in the link between the two nodes. However, the Hsing, et al. patent does not inhibit generation of a switch status message to a third node in the data path as required by the claimed invention. Thus, the structure that would result from placing the data rerouting capability based on a failure detected in the poll/response mechanism of the Hsing, et al. into the system of the Lamport, et al. patent that continues to send keep alive messages to a node despite not receiving an acknowledgment from the node still fails to provide an ability to inhibit sending of a status message to a different node in the data path that initiates redirection of the data onto a different data path as required by the claimed invention. Support for the above recitation can be found at page 11, lines 3-10, of Applicant's specification.

Independent Claims 22 and 23 recite in general the ability to send a switch status message to a first switch in response to not receiving a first data message from the first switch, where the switch status message initiates redirection of subsequent data messages over an alternate data path through a data network. The Examiner readily admits that the Lamport, et al. patent lacks any disclosure related to this feature. The Examiner uses the Hsing, et al. patent to support the disclosure of this feature. However, the Hsing, et al. patent merely discloses sending a re-route release message for releasing bandwidth for a call from a first switch to downstream switches in response to detecting a link fault by the first switch. The Hsing, et al. patent does not provide a capability for the first switch to receive a status message from a second switch to initiate redirection of

subsequent data messages onto an alternate data path in response to the second switch not receiving a data message on from the first switch on the data path as required in the claimed invention. The Hsing, et al. patent uses a polling/response mechanism and does not provide any response as a result of lack of receipt of data on the data path as provided in the claimed invention. Thus, the proposed structure that would result from placing the re-route technique in response to a polling/response mechanism of the Hsing, et al. patent into the system of the Lamport, et al. patent that uses the keep alive implementation still lacks the ability to send a switch status message to a first switch in response to not receiving a first data message from the first switch, where the switch status message initiates redirection of subsequent data messages over an alternate data path through a data network.

Based on the foregoing, the Lamport, et al. and Hsing, et al. patents are insufficient to support a rejection of the claims. Therefore, Applicant respectfully submits that Claims 1, 3-9, 11, 13, 14, and 17-23 are patentably distinct from the proposed Lamport, et al. - Hsing, et al. combination.

Claims 2, 10, 12, and 24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lamport, et al. in view of Hsing, et al. and further in view of McGill, et al. Independent Claim 1, from which Claims 2 and 10 depend; Independent Claim 11, from which Claim 12 depends; and Independent Claim 23, from which Claim 24 depends, have been shown above to be patentably distinct from the proposed Lamport, et al. - Hsing, et al. combination. Moreover, the McGill patent does not include any additional disclosure combinable with either the Lamport, et al. or Hsing, et al. patents that would be material to patentability of these

claims. Therefore, Applicant respectfully submits that Claims 2, 10, 12, and 24 are patentably distinct from the proposed Lamport, et a. - Hsing, et al. - McGill combination.

Claims 15 and 16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lamport, et al. in view of Hsing, et al. and further in view of Shew, et al. Independent Claim 11, from which Claims 15 and 16 depend, has been shown above to be patentably distinct from the proposed Lamport, et al. - Hsing, et al. combination. Moreover, the Shew, et al. patent does not include any additional disclosure combinable with either the Lamport, et al. or Hsing, et al. patents that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 15 and 16 are patentably distinct from the proposed Lamport, et a. - Hsing, et al. - Shew, et al. combination.

This Response to Examiner's Final Action is necessary to address the interpretations of the claims and the cited art provided by the Examiner. This Response to examiner's Final Action could not have been presented earlier as the Examiner has only now provided the most recent interpretations of the claims and the cited art.

CONCLUSION

Applicant has now made an earnest attempt to place the Application in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests reconsideration and full allowance of all pending claims.

The Commissioner is hereby authorized to charge any amount required or credit any overpayment to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

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